

# A BILL

FOR AN ACT CREATING THE OFFICE OF PROBATE COURT IN THE SEVERAL COUNTIES  
IN THIS STATE AND DEFINING THE DUTIES AND JURISDICTION OF SAID  
PROBATE COURT.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:**

Section 1. That a probate court is hereby created and established in the several counties  
2 of said state.

Sec. 2. In each county within this state, the qualified voters therein at the general elec-  
2 tion in the year nineteen hundred and two (1902), and every fourth year thereafter, shall elect  
3 a probate judge who shall be a member of the bar and shall be elected as other county officers,  
4 and said judge shall be ex-officio, clerk of said court.

Sec. 3. Said probate judge shall hold his office at the county seat in their respective  
2 counties, and shall hold office for a term of four years, and until his successor is elected and  
3 qualified. But in case of a vacancy in said office, the board of supervisors of the county  
4 wherein said vacancy exists, shall appoint a probate judge who shall hold office until the next  
5 general election and until his successor is elected and qualified.

Sec. 4. Each of said judges shall hold a regular term of court at the county seat in his  
2 county, commencing on the first Monday of each month. At which regular term shall be  
3 transacted all business requiring notice. All other business within the jurisdiction of said  
4 county may be transacted at any time, and for this purpose said probate court shall be open  
5 at all times.

Sec. 5. The court may direct such notice as shall be given in any matter requiring notice;  
2 and no hearing shall be had until proof is made of the proper service of such notice. When no  
3 notice is prescribed by the court the same notice shall be given as in the commencement of a  
4 civil action.

Sec. 6. When the judge is a party interested in the matters pending before said court or  
2 related by blood or affinity within the fourth degree, he shall order the matter transferred

3 to the district court of the county to be heard, and the clerk of said district court shall enter  
4 the record of the proceedings in the district court, in the probate records of the county.

Sec. 7. Except the cases as provided in section six (6) hereof; the probate court shall have  
2 jurisdiction, original and exclusive, in the county, of all the following actions and proceedings.  
3 All matters relating to probate of wills, the appointment and supervision of executors, admin-  
4 istrators and guardians and minors, idiots and insane persons. The settlement of decedents  
5 estates, and the care of estates of minors, idiots and insane persons, the examination and set-  
6 tlement of the accounts of executors, administrators and guardians. All application for assign-  
7 ment of widow's dower, all applications for sale of decedent's real estate, or that of minors or  
8 any person under guardianship, and all the jurisdictional powers and duties enumerated in and  
9 designated as first (1st), second (2nd), third (3d) and fourth (4th), section two hundred and  
10 twenty-five (225), chapter five (5), title three (3) of the code, are hereby transferred from the  
11 district court to the probate court, and such jurisdiction and duties shall devolve upon the pro-  
12 bate court and except as provided in section six (6) of this bill, the jurisdiction of the district  
13 court is hereby denied.

Sec. 8. All the powers and duties imposed by chapter one (1), title seventeen (17) of the  
2 code shall vest in and devolve upon the probate court.

Sec. 9. All the duties and liabilities prescribed by sections thirty-one hundred and forty-  
2 one (3141), thirty-one hundred and forty-two (3142), thirty-one hundred and forty-three (3143),  
3 thirty-one hundred and forty-four (3144) and thirty-one hundred and forty-six (3146), chap-  
4 ter one (1), title sixteen (16) of the code, and all the duties devolving upon the clerk of the  
5 district court as provided by section twenty-five hundred and sixty-seven (2567), chapter six (6),  
6 title twelve (12) of the code is hereby transferred to the jurisdiction of the probate court and  
7 the same duties shall devolve upon said probate court. And there is hereby added to section  
8 thirty-one hundred and forty-five (3145) of the code the probate judge.

Sec. 10. All persons aggrieved by any judgment or order of the probate court, shall have  
2 the right of appeal from any judgment or order of said court of the judge thereof. Said  
3 appeal shall be taken to the supreme court in the same manner and under the same restric-  
4 tions, and within the same time, and with the same effect as appeals are taken from the dis-  
5 trict court.

Sec. 11. The salary of the probate judge shall be one thousand dollars (\$1,000) per year,  
2 to be audited by the board of supervisors of the several counties and paid out of the county  
3 treasury.

Sec. 12. All fees for probate business as now or may hereafter be prescribed shall continue to be collected by said court and paid into the county treasury, and said judge to file a report of fees collected with the county auditor on the first day of January and July of each year.

Sec. 13. All the powers and duties imposed upon the district court or the clerk of the district court in chapter two (2), title seventeen (17) of the code, are hereby transferred to the jurisdiction and imposed upon the probate court. And in case of contest of a will as provided in section thirty-two hundred and eighty-two (3282) of said chapter, the probate court shall issue a venire directed to the sheriff of the county directing the sheriff to summon twenty-four (24) men from the body of the county, twelve (12) of whom shall be selected to act as such jury. Said jury shall be empaneled under the same rules as are employed in the district court for the empaneling of a jury. And said jury shall receive the same compensation as jurors in the district court. And said probate court shall have power to instruct said jury in all matters of law in like manner as in the district court.

Sec. 14. Every probate court shall be provided with a seal, and there shall be engraved thereon the words "Iowa Seal of the Probate Court" and in addition thereto the name of the county in which said seal is to be used. And all papers issuing from said court or by the judge thereof shall be authenticate by an impression of said seal thereon.